IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 258 of 2005

Between:

Mohd Ameer Khan S/o.Mohd.Osman Khan
Hyderabad R/o.Kattaguda Village, Kundkoor Mandal and Post. Ranga Reddy District.

..... PETITIONER

AND

The Depot Manager A.P.S.R.T.C. Falaknuma Depot, Engin Bowli, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of writ of Mandamus declaring the action of the respondent who has inspected the accident spot along with his Subordinates Officers ie., Assistant Manager (T) and TI/II and recorded the witnesses on the spot himself but without motor vehicle inspectors report, Police Punchanama report and post mortem report after a lapse of 2 and 1/2 months on the contradictory dates of fatal accidents shown in the subject of the charge sheet as 29.11.2004 and the same date has been mentioned in suspension order whereas the different dated 299.2004 has been mentioned in charge, in issuing suspension order No.01/2(11)04-FM Dt.15.12.2004 by the witnesses and inspecting officer, on the enquiry report conducted by the witnesses officer, is as illegal, unjust contrary officer, on the enquiry report contrary to law and in violation of principles of natural justice by granting all consequential benefits and set aside the suspension order No.01/2(11)04-FM Dt.15.12.2004.

Counsel for the Petitioner: MR.MOHD.GHOUSEUDDIN

Counsel for the Respondent: MR.V.T.M.PRASAD

The Court made the following :

ORAL ORDER:

This writ petition is filed challenging the Proceedings No.01/2(11)04-FM, dated 15.12.2004 issued by the respondent. The petitioner was placed under suspension for causing a fatal accident on 29.9.2004.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondent and perused the material on record.

The learned counsel for the petitioner has vehemently contended that there was no mistake on the part of the petitioner in causing the accident and in fact, the same was brought to light in the preliminary enquiry. Therefore, placing an employee, who is suffering from heart ailment, under suspension is nothing but a punishment to him. Hence, he prays that the suspension order may be set aside.

The learned standing counsel for the respondent has contended that suspension of the petitioner pending enquiry and the jurisdiction of the authority, who passed the impugned order is not under challenge.

No doubt, an observation has been made in the preliminary enquiry report that there is no mistake on the part of the driver, but at the same time, in the concluding paragraph of the Assistant Manager, who conducted the preliminary enquiry and submitted a report on 13.12.2004, he categorically opined that there was gross negligence on the part of the petitioner, who without following traffic rules, caused the accident. As a matter of fact, the police also registered a case

against the petitioner in Crime No.629 of 2004, dated 29.9.2004 for the offence under Section 304-A of Indian Penal Code. Since it is a misconduct in terms of Regulations 28(ix) and 28(xxxi) of A.P.S.R.T.C. Employees (conduct) Regulations, 1963, the petitioner was rightly placed under suspension and the jurisdiction of the authority, who passed the suspension order is not under challenge. Therefore, there are absolutely no grounds to interfere with the suspension order, dated 15.12.2004.

For the foregoing reasons, the writ petition is disposed of with a direction to the respondent to complete the enquiry within a period of three months from the date of receipt of a copy of this order. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

19th January, 2005

To

1. The Depot Manager A.P.S.R.T.C. Falaknuma Depot, Engin Bowli, Hyderabad.

2. Two C.D.copies